

ATTACHMENT

Regarding applicant's argument that the web of Weber et al. is untensioned, the portion of Weber et al. applicant is referring to is describing the article as it refers to Figure 2D, which shows the article. In general, a film moving from one location to another is considered to be under tension unless specifically described as not under tension since it is tension in the longitudinal direction that moves the web. The reference discloses the web is under slight tension in the longitudinal direction.(Col. 11, ll. 59-62) It is noted the Dobrin et al. discloses the tension can be controlled depending on the desired width(Col. 9, ll. 9-Col. 10, l. 51) and the reference provides examples with very low tension(Table II, A and B).

Regarding applicant's argument that Weber et al. does not disclose a nonwoven web, Weber et al. discloses the top sheet is a nonwoven.(Col. 11, ll. 3-5) What Weber et al. discloses is a laminate web made of a nonwoven bonded to an elastic web.

Regarding applicant's argument that Dobrin et al. uses teeth with rounded tips which already avoid cuts and tears to the web so that using multiple corrugating rolls to perform the same function would not be needed, the substitution of one known element for another to obtain predictable results is considered an obvious reason to modify a reference. These elements perform the same function and thus are equivalents and therefore obvious variations. Alternatively, the rejection does not state that the shape of the rolls of Dobrin et al. are replaced, simply that the concept of multiple corrugating rolls is used. Since the shape of the corrugations is related to the desired final shape of

the corrugations in the webs, one in the art would appreciate that the same pattern and shape of corrugations of Dobrin et al. would be used when modifying it to use multiple corrugation rollers since the pattern and shape of the corrugations determines the pattern and shape of the corrugations of the web. It is known to use two mechanisms which perform the same function together, i.e. using the rounded tips of Dobrin et al. and the multiple corrugating rolls of Weber et al., to improve the process efficiency such as the use of belt and suspenders when both perform the same function and the combination renders the problem they prevent even less likely.

Regarding applicant's argument that Weber et al. fails to provide a plurality of mating surfaces having fins positioned to fit within the grooves of the forming surfaces, the fins(pointed regions) of Weber et al. fit within the grooves(depressed regions). The claim does not require or indicate in any fashion that the fins cannot fit hand and glove with the grooves or that any space is required between the fins and the grooves when the two rolls are in use.

Regarding applicant's argument that the surfaces of Weber et al.'s fins are manifestly different from those of applicant, examiner now understands applicant's argument. However, while Figure 2B of Weber et al. is different from applicant's Figure 4 cross section of the corrugations, the claims do not require the specifics of the corrugations such that Weber et al. does not meet the claim requirements. Applicant's argument is not commensurate in scope with the **claims** of the invention.

Regarding applicant's argument that the combination would not be obvious since Weber et al. did not envision the combination, the fact that the reference did not

Art Unit: 1791

envision all possible combinations does not indicate the combination was not obvious, but merely that the reference did not describe every possibility. The fact that a group of inventors failed to envision a combination does not mean that others of ordinary skill in the art when presented with the references would not have envisioned the combination. The KSR decision states that the combining of prior art techniques according to known methods to yield predictable results is obvious. These are clearly known techniques combined according to known methods which yield a predictable result. This is also an example of the use of a known technique to improve a similar method in the same way, which again indicates the combination would have been obvious. The fact that the inventors did not brainstorm on every possible modification to their device and include it in their application does not mean it would not have been obvious.

Regarding applicant's argument that examiner is ignoring the law and contradicting the facts by examiner's response to applicant's argument about Dobrin et al. being a web while Weber et al. is a laminate and thus the advantage is the same, examiner does not see how examiner is ignoring the law OR contradicting the facts. Examiner HAS demonstrated obvious with a reason (reducing the strain on the web and causing less damage) for the obvious. Additionally, via KSR, the combination is ALSO obvious since it is both a combining of known prior art elements according to known methods to yield predictable results, a substitution of one known element(multiple corrugating rolls) for another(rounded tips) to yield predictable results, and a use of known technique to improve similar devices in the same way. Weber et al. specifically states the method prevents rupture of the webs in the patterns of the corrugations(Col.

Art Unit: 1791

9, ll. 18-19) Applicant appears to be misinterpreting the facts, as the reference does not disclose the problem with the prior art was separation of the webs, i.e. damage to the interface, as applicant indicates. Instead the reference clearly states the damage would be rupturing, i.e. tearing, of the webs, not separation of the webs and thus is a valid reason to use the same device on a single web. Examiner agrees that stretching would stress the interface, but the reference does not disclose this as the reason for the use of multiple corrugating rolls, and even if it did, it still states that a problem is rupturing of the laminate, which would occur for a single web and would in fact seem to be more likely for a single web since it would not have a reinforcing/protective layer bonded to it.

Regarding applicant's argument that Dobrin et al. does not disclose that well-known types of adhesive applicators can be used, it indicates that the joining can occur in a number of ways, including adhesive lamination, and that these methods are well-known to those in the art. (Col. 21, ll. 22-25) This indicates that the joining can occur via any adhesive lamination method. As to applicant's argument that a slot adhesive process is not included in this list, a slot adhesive applicator is a type of adhesive lamination device. The reference does not disclose ANY type of adhesive applicator, only disclosing the general types of processes, so clearly applicant's specific type is not listed. This does not mean that one in the art would not look to known methods of adhesive lamination to determine how to bond the layers together.

Regarding applicant's argument that Boger et al. is not a stretched web when the adhesive is applied, since the web of Dobrin et al. is stretched prior to bonding one in the art would appreciate that the adhesive was not applied until after the stretching so

Art Unit: 1791

the adhesive would not adhere to the stretching rolls particularly since the reference discloses the joining, including adhesive lamination, occurs at station 13 which is after the stretching.

Regarding applicant's argument that examiner has impermissibly placed on applicant the burden of proof, when examiner has provided a reason for obviousness, the burden shifts to applicant to rebut the combination. Applicant has asserted that adhesive would behave differently without providing any evidence to that effect. What applicant appears to actually be arguing is that the amount of adhesive needed would be different and that its degree of penetration into the web would be different, which would be obvious since one of ordinary skill would know that changes in the material, i.e. changes in density or thickness, would result in a change in the amount of adhesive required. There is no evidence that the behavior of the adhesive, i.e. its properties, would change dependent on the material it was applied to. Examiner finds it unlikely the behavior of the adhesive would change, though the amount needed or the depth to which it would penetrate might. This is why examiner requested evidence, as it appeared that applicant was stating that the properties, i.e. behavior, of the adhesive would change dependent on the material it was applied to. Since a change in the properties of the adhesive depending on the type of material it is applied to is unexpected, examiner was requesting evidence of these unexpected results.

Regarding applicant's argument that examiner is relying on hindsight by stating that since Dobrin et al. and applicant are making laminates for the same purpose and therefore would desire the same properties, as examiner has provided multiple reasons

Art Unit: 1791

for obviousness, examiner does not see how she is relying on hindsight. When one in the art is making the same type of product as applicant for the same purpose, one in the art would expect it to have the same properties, i.e. number of corrugations per inch which corresponds to the number of teeth per inch since they both have the same intended purpose, i.e. being an elastic laminate for a diaper.

Regarding applicant's argument that using the applicator of Boger et al. would not have been obvious since it doesn't apply adhesive to a corrugated web, its advantages, i.e. allowing accurate placement of adhesive, would be highly desirable in a corrugated web due to the corrugations. The fact that the reference uses the device for a different purpose does not mean that is the only purpose it can be used for.

Regarding applicant's argument that Dobrin et al. does not disclose stretching the machine direction as an alternative to stretching the cross-direction, the fact that a reference does not disclose something well-known in the art does not mean that such is not well known in the art as shown for example by Morman et al. which discloses stretching in the machine direction to improve breathability.[0011]

Regarding applicant's argument that one would not stretch in the machine direction since such causes necking and other unwanted effects which examiner has supposedly ignored, one in the art would know about these effects as they would also know about unwanted effects caused by stretching in the cross-direction and would choose a stretching direction depending on which unwanted effects were less deleterious for the desired invention. Such a choice would have been well within the

skill of one in the art. This is a simple combination of known prior art elements according to known methods to yield predictable results.

Regarding applicant's argument that Morman et al. is not in the context of the claims as it is stretching the second web rather than the first, Morman et al. is cited to show that such is well-known and conventional in the laminating arts, a combining of known prior art elements according to known methods to yield predictable results.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BARBARA J. MUSSER whose telephone number is (571)272-1222. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

Application/Control Number: 10/743,245

Page 9

Art Unit: 1791

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BJM

/B. J. M./

Examiner, Art Unit 1791

/Richard Crispino/

Supervisory Patent Examiner, Art Unit 1791